

HOUSE BILL 396
By Shepard

AN ACT to amend Tennessee Code Annotated, Title 56,
relative to prior authorization of health care
services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 1, is amended by
adding the following as a new, appropriately designated section:

56-7-129. (a) A health insurance entity, as defined in § 56-7-109(a)(3), shall not
issue any denial of payment, including a revocation of the prior authorization for payment
or a retrospective denial of payment, for any clean claim, as defined in § 56-7-109, for
health care services for which that health care provider or that provider's representative
has previously obtained authorization.

(b) A health insurance entity shall not issue a denial of payment, including a
revocation of the authorization for payment or a retrospective denial of payment, for any
clean claim, as defined in § 56-7-109, for health care services for which that health care
provider or that provider's representative was previously informed by the health
insurance entity's representative that prior authorization was not needed.

(c) If an individual is covered by two (2) or more health insurance entities, then
no secondary payor shall deny payment of any clean claim for which a health care
provider has previously obtained authorization from a primary payor.

(d) If an individual is covered by (2) two or more health insurance entities and if
the primary payor does not require prior authorization for medical services, then no
secondary payor may condition coverage or payment on preauthorization of services.

(e) This section shall not apply if it has been determined that prior authorization was obtained fraudulently or for any other legitimate cause as established by the commissioner. Such determination shall be made according to rules promulgated by the department of commerce and insurance.

(f) The commissioner shall impose a civil penalty against any health insurance entity of not less than one thousand dollars (\$1,000) per occurrence for each violation of any provision of this section, or of any rule or regulation promulgated hereunder. The commissioner shall impose a penalty of ten thousand dollars (\$10,000) per occurrence for the sixth (6th) violation and each subsequent violation.

(g) There is hereby established a general fund reserve to be allocated by the General Appropriations Act which shall be known as the "prior authorization civil penalty fund". All civil penalties collected pursuant to subsection (f) shall be deposited into the fund. Moneys from the fund may be expended only to fund departmental costs generated to carry out this section. Any revenues deposited in this reserve shall remain in the reserve until expended for purposes consistent with this section, and shall not revert to the general fund on any June 30. Any excess revenues shall not revert on any June 30, but shall remain available for appropriation in subsequent fiscal years. Any appropriation from such reserve shall not revert to the general fund on any June 30, but shall remain available for expenditure in subsequent fiscal years.

SECTION 2. The commissioner of commerce and insurance is authorized to promulgate rules to effectuate the purposes of this act. All such rules shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2006, the public welfare requiring it

